IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 19532 of 2003

Between:

Ch.Satyanandam, s/o Manikyala Rao,
r/o Gompa, Visakhapatnam District.

..... PETITIONER

AND

1 The Govt., of A.P., rep., by its Secretary, Agriculture and Co-operation Department, Secretariat, Hyderabad.
2 The Commissioner and Registrar of Co-operative Societies, A.P., Hyderabad.
3 The District Co-operative Officer, Co-operative Department, Visakhapatnam District.
4 The Chairman & Person In-charge, Co-operative Department, Raavi Kamatham Primary Agricultural
Co-operative, Raavi Kamatham, Visakhapatnam.
5 The Divisional Co-operative Officer, Co-operative Department, Yelamanchali, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents 3 to 5 in proposing to terminate the services of the petitioner through show cause Notice dt.19-5-2003 as arbitrary, illegal, without jurisdiction and violative of Article 14, 16 and 21 of the Constitution of India and contrary to the shops and establishment Act and consequently direct the respondents to reinstate the petitioner into service with all consequential benefits

Counsel for the Petitioner:MR.ANDAPALLI SANJEEV KUMAR

Counsel for the Respondent Nos.1,3 & 5: GP FOR COOPERATION.

Counsel for respondent No.4: . MR.DADI RADHA KRISHNA.

The Court made the following :

O R D E R:

It is the case of the petitioner that the parents of the petitioner took some loan amounts from the Co-operative Society. As they failed to pay the amount, in the absence of the father of the petitioner, the staff of the Bank came to the house of the petitioner and thrown out all the furniture and domestic appliances, in order to attach the house. As the mother of the petitioner did not bear the acts of the Bank authorities, she committed suicide before the staff of the Bank by pouring kerosene on her body and litting fire. After realizing the situation, the authorities of the Bank gave appointment to the petitioner in the Bank on compassionate grounds. On 27.06.2001 the petitioner joined the services as Attender in the 4th respondent-Raavi Kamatham Primary Agricultural Co-operative Society Limited, Visakhapatnam and since then he is continuing in the service without any complaints from the authorities. As the matter stood thus, in pursuance of the directions issued by the 5th respondent-Divisional Co-operative Officer, Yelamanchali, Visakhapatnam, the 4th respondent passed a resolution on 24.4.2003 to the effect that the appointment of the petitioner along with another person is violative of Act 2 of 1994 of the Andhra Pradesh (Regulation of Appointments to Public Services & Rationalisation of Staff Pattern & Pay Structure) Act (for short the 'Act") Thereafter, as per the instructions of

the 5th respondent, the 4th respondent issued show cause notice of termination, dated 19.05.2003 to the petitioner. Aggrieved by the same, this writ petition is filed stating that the termination of the petitioner is made in violation of Act 2 of 1994.

The Society can make an independent decision as to whether the appointment of the petitioner is contrary to Section 116-C read with Rules 284 & 36-B of the Act. The services of the petitioner are sought to be terminated only on the direction of the 5th respondent. On an earlier occasion, this Court held that as long as the directions of the Deputy Registrar of Cooperative Societies is in conformity with Section 116-C of the Act, read with Rules 284 & 36-B of the Rules, it cannot be found fault with, but if any such direction is issued on the ground that such an appointment is made in violation of Act 2 of 1994 of the Act, the Society need not obey such directions and it is for the Society to take an independent decision either for continuance or removal of the employees, while implementing the mandatory provisions of Section 116-C of the Act.

For the aforesaid reasons, the impugned show cause notice, dated 19.05.2003 has to be set aside and it is accordingly set aside. The writ petition is allowed, with a liberty to the 4th respondent Society to take appropriate action in conformity with the mandatory provisions of Section 116-C read with Rules 28(4) and 36-B of the Rules. No costs.

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V.ESWARAIAH.J

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The Rule Nisi has been made absolute as

above. Witness the Honourable Sri Devinder Gupta,

the Chief Justice on this the Fourth Day

of November, 2004.

ASSISTANT REGISTRAR

To

1 Secretary, Govt., of A.P., Agriculture and Co-operation Department, Secretariat, Hyderabad.
2 The Commissioner and Registrar of Co-operative Societies, A.P., Hyderabad.
3 The District Co-operative Officer, Co-operative Department, Visakhapatnam District.
4 The Chairman & Person In-charge, Co-operative Department, Raavi Kamatham Primary Agricultural
Co-operative, Raavi Kamatham, Visakhapatnam.
5 The Divisional Co-operative Officer, Co-operative Department, Yelamanchali, Visakhapatnam District.

6. 2 CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad (OUT).

7. 2C.D.Copies.